IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWELFTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 26356 of 2005

Between:

Bharat Sanchar Nigam Limited rep by its

Chief General Manager,
Telecom A.P Circle, Hyderabad and another

..... PETITIONERS

AND

The Asst.Provident Fund Commissioner,

Employees Provident Funds,

(Ministry of Labour Govt. of India)
Sub Regional Office 3rd Lane,

Krishna Nagar, Guntur and another

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the order No.AP/40188/7A/SRO/GNT/617, dated 30.06.2004 of the 1st respondent directing the 2nd petitioner to remit an amount of Rs.22,929-90 ps as dues under EPF & Miscellaneous Provisions Act, 1952 and consequential order of issuing certificate No.AP/40188/Comp-II/SRO/GNT/ENF/P.2005/163, dated 26.04.2005 under Section 8-B of the Act and notice of demand dated 27.05.2005 of No.A.P.40188/Recovery/KST/2005/249, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioners and the learned standing counsel appearing for the respondents.

The petitioners question the order dated 30.06.2004 issued by the 1st respondent, directing the 2nd petitioner to remit an amount of Rs.16,352-90 ps. Admittedly, the said order has been passed by the

1st respondent in exercise of powers under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act'). As against the said order, an appeal lies under Section 7-I of the Act to the appellate authority.

The learned counsel for the petitioners submitted that the amount raised in respect of employees engaged by the Department of Tele Communications was covered under Government Provident Fund, but not under the Act. I am of the opinion that the said contention cannot be decided in a writ petition when there is an alternative effective remedy of appeal to the petitioners to raise all contentions. However, I do not see prima facie evidence that goes to show that the respondents have raised demand in respect of employees covered by the Government Provident Fund. Whether any contribution has been demanded in respect of employees covered by the Government Provident Fund or not, is a matter to be decided by the appellate authority.

Having regard to the facts and circumstances of the case, the petitioner is permitted to file an appeal before the appellate authority within a period of three weeks from the date of receipt of a copy of this order. There shall be stay of operation of the impugned proceedings passed by the 1st respondent dated 30.06.2004 during the pendency of the appeal subject to condition that the petitioner deposits half of the demanded amount, within a period of three weeks from to day.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

Dated: 12.12.2005

Dsr

Note:

Issue CC in two days

B/o

Dsr